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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,287	03/17/2004	David C. Newkirk	7175-74606	3619
23643	7590	09/28/2005		
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			EXAMINER SANTOS, ROBERT G	
			ART UNIT 3673	PAPER NUMBER
DATE MAILED: 09/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/802,287	Applicant(s) NEWKIRK ET AL.	
	Examiner Robert G. Santos	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/17, 7/19, 8/19, 9/02 & 12/27/04; and 1/14 & 7/05/05
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) 21-30, 46, 53, 54 and 57-59 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-45 and 47-50 is/are allowed.
- 6) ☒ Claim(s) 1-12, 16, 19, 20, 51, 52, 55, 56 and 60-66 is/are rejected.
- 7) ☒ Claim(s) 13-15, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/19/04, 8/19/04, 9/02/04, 12/27/04 & 1/14/05</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 21-30, 46, 53, 54 and 57-59 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2005.

Claim Objections

2. Claim 10 is objected to because of the following informalities: In line 2, the term --the-- has been inserted after the term "inside". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 5, 11, 12 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,213,481 to Marchese et al. As concerns claims 1 and 60, Marchese et al. '481 are considered to show the claimed limitations of a patient care equipment support system comprising a vertically disposed support structure (1), a first arm (2a) mounted to the support structure for pivotable movement in a first horizontal plane (as described in column 4, lines 25-26), the first arm carrying a first patient care equipment column (3), and a second arm (2')

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mounted to the support structure for pivotable movement in a second horizontal plane (also as described in column 4, lines 25-26), the second arm carrying a second patient care equipment column (3). With regards to claims 4 and 5, the reference discloses conditions wherein the first arm (2a) extends in a first radial direction in the first plane and the second arm (2') extends in a second radial direction in the second plane (as shown in Figure 1) and wherein the first and second arms *can be moved* such that the first arm extends in the second radial direction in the first plane and the second arm extends in the first radial direction in the second plane. As concerns claims 11 & 12 and with further regards to claim 60, the reference is considered to show conditions wherein the first and second columns extend downwardly from the distal ends (also as shown in Figure 1), respectively, of the first and second arms and wherein at least one of the first and second equipment columns is *detachable* from its respective first or second arm.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 6, 20, 51, 52 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchese et al. '481 in view of U.S. Pat. No. 6,434,329 to Dube et al. With regards to claims 2, 3, 6, 51, 52 and 61, Marchese et al. '481 do not specifically disclose a condition wherein at least the first arm is telescoping and comprises a first portion having a mount end, a distal end extending away from the mount end, and a second portion coupled to the

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distal end of the first portion and configured to telescope relative to the first portion, wherein the second portion of at least the first arm is not pivotable relative to the first portion. Dube et al. '329 provide the basic teaching of a support system comprising a first arm (50) mounted to a vertically disposed support structure for pivotable movement in a horizontal plane and having a plurality of telescoping portions (58, 60) which do not pivot relative to each other. The skilled artisan would have found it obvious at the time the invention was made to provide the support system of Marchese et al. '481 with at least a first arm which is telescoping and comprises a first portion having a mount end, a distal end extending away from the mount end, and a second portion coupled to the distal end of the first portion and configured to telescope relative to the first portion, wherein the second portion of at least the first arm is not pivotable relative to the first portion, in order to enhance the positioning capabilities of the attached patient care equipment column as desired.

As concerns claim 20, Dube et al. '329 also provide the basic teaching of a support system having a plurality of arms which pivot about a common vertical axis (as shown in Figures 2, 5 & 6). The skilled artisan would have found it obvious at the time the invention was made to provide the support system of Marchese et al. '481 with a plurality of arms which pivot about a common vertical axis in order to provide a simple, alternative configuration which maintains and ensures enhanced freedom of movement for each of the arms as desired.

7. Claims 7-10 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchese et al. '481 in view of U.S. Pat. No. 3,431,937 to Hettlinger et al. Marchese et al. '481 does not specifically disclose conditions wherein the at least one of the first and second arms is

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configured to carry a plurality of service conduits therein; wherein the service conduits supply at least one service selected from the group comprising: medical air, oxygen, vacuum, nitrogen, nitrous oxide, electronic data connectivity, and electricity; and wherein at least one of the first and second columns carries a gas port comprising a nozzle extending from the column and a flow meter mounted inside the column. Hettlinger et al. '937 provide the basic teaching of a support system (10) comprising a patient care equipment column (11, 12) which is configured to carry a plurality of service conduits (43, 44, 47, 49, 61, 65, 66) therein; wherein the service conduits supply services for medical air (65, 66), oxygen (43), and vacuum (44, 61); and wherein the column carries a gas port (16) comprising a nozzle and a flow meter (17). The skilled artisan would have found it obvious at the time the invention was made to provide the support system of Marchese et al. '481 with at least one of the first and second arms being configured to carry a plurality of service conduits therein; wherein the service conduits supply at least one service selected from the group comprising: medical air, oxygen, vacuum, nitrogen, nitrous oxide, electronic data connectivity, and electricity; and wherein at least one of the first and second columns carries a gas port comprising a nozzle extending from the column and a flow meter mounted inside the column in order to ensure convenient medical treatment for a patient positioned nearby.

8. Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchese et al. '481. Marchese et al. '481 do not specifically disclose the use of a third arm mounted on the support structure for pivotable movement in a third horizontal plane, the third arm carrying a third column or patient care equipment. The examiner respectfully asserts that

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one of ordinary skill in the art would have found it obvious to provide the support system of Marchese et al. '481 with a third arm mounted on the support structure for pivotable movement in a third horizontal plane, the third arm carrying a third column or patient care equipment since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. With regards to claim 19, Marchese et al. '481 further teach the use of an arm (2) comprising two support members (2a, 2b) in spaced apart relation to each other.

9. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marchese et al. '481 in view of Hettlinger et al. '937, and further in view of U.S. Pat. No. 3,556,455 to Storm et al. Marchese et al. '481, as modified by Hettlinger et al. '937, does not specifically disclose the use of controls mounted on the interface of the column. Storm et al. '455 provide the basic teaching of a support system (30) comprising a column (31) including a control panel (36) mounted thereon. The skilled artisan would have found it obvious at the time the invention was made to provide the support system of Marchese et al. '481, as modified by Hettlinger et al. '937, with controls mounted on the interface of the column in order to facilitate positioning of the column as well as operation of the service lines, thereby ensuring enhanced patient care.

10. Claims 62-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchese et al. '481 in view of Dube et al. '329, and further in view of U.S. Pat. No. 3,213,877 to May et al. Marchese et al. '481, as modified by Dube et al. '329, do not specifically disclose the use of an electrical conduit and a first flexible carrier for the electrical conduit disposed in the arm; a gas

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conduit disposed and a second flexible carrier for the gas conduit also disposed in the art; wherein the first and second flexible carriers move in tandem when the telescoping arm is moved either inwardly or outwardly and wherein the second flexible carrier is radially spaced apart from the first flexible carrier. May et al. '877 provide the basic teaching of a support system comprising an arm having of an electrical conduit (48) and a first flexible carrier for the electrical conduit disposed in the arm; a gas conduit disposed (46) and a second flexible carrier for the gas conduit also disposed in the art; wherein the first and second flexible carriers move in tandem when the telescoping arm is moved either inwardly or outwardly (as described in column 3, lines 48-59) and wherein the second flexible carrier is radially spaced apart from the first flexible carrier (as shown in Figure 2). The skilled artisan would have found it obvious at the time the invention was made to provide the support system of Marchese et al. '481, as modified by Dube et al. '329, with an electrical conduit and a first flexible carrier for the electrical conduit disposed in the arm; a gas conduit disposed and a second flexible carrier for the gas conduit also disposed in the art; wherein the first and second flexible carriers move in tandem when the telescoping arm is moved either inwardly or outwardly in order to ensure convenient and uninterrupted operation of the service lines regardless of the positioning of the arm, thereby also ensuring enhanced patient care.

Allowable Subject Matter

11. Claims 13-15, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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12. Claims 31-45 and 47-50 are allowed. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest the use of a patient care equipment support system comprising the particular structural configuration of a first arm mounted *to pivot horizontally* from a vertically disposed support structure and a patient care equipment column coupled to a distal end of the first arm in combination with a console configured to house at least a portion of the support structure as recited in independent claim 31. With regards to the prior art, U.S. Pat. App. Pub. No. 2003/0014817 to Gallant et al. discloses the use of a support system comprising an arm which includes a patient care equipment column coupled to an end thereof and being mounted to a vertically disposed support structure which is partially housed by a console; however, the arm of the support system of Gallant et al. '817 is disclosed as being configured to slide horizontally instead of pivoting as claimed by Applicants.

Conclusion


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Howell et al. '442, Newkirk et al. '019, Newkirk et al. '996, Turner '578, Newkirk '220, Howell et al. '623, Howell et al. '107, Howell et al. '363, Howell et al. '296, Howell et al. '683, Schaefer '741 and Kreuzer '019.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
September 16, 2005